

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Eastern District of Washington on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO. CV-11-330-EFS	DATE FILED 09/06/11	U.S. DISTRICT COURT <b>Eastern District of Washington</b>
PLAINTIFF Provision A/R, Inc.		DEFENDANT Commercial Recovery Corporation
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1	SEE ATTACHED COPY OF COMPLAINT FOR PATENT INFRINGEMENT	
2	7, 147, 839	
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY		
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK <b>James R. Larsen</b>	(BY) DEPUTY CLERK <i>Henry Lamb</i>	DATE 9-06-11
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Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PROVISION A/R, INC., a Washington  
corporation,

Plaintiff,

vs.

COMMERCIAL RECOVERY  
CORPORATION, a Minnesota  
corporation,

Defendant.

Civil Cause No. CV-11-330-EFS

**COMPLAINT FOR DECLARATORY  
JUDGMENT AND OTHER RELIEF**

Plaintiff, Provision A/R, Inc. (Provision A/R), by and through its undersigned  
counsel, brings this action against Defendant, Commercial Recovery Corporation  
(CRC), for a declaratory judgment declaring that U.S. Patent No. 7,167,839 (the

1 '839 Patent) is invalid and/or is not infringed by Provision A/R or any subscriber of  
2 Provision A/R.

3  
4 **PARTIES**

5 1. Provision A/R, Inc. is a corporation organized under the laws of the  
6 State of Washington, with its principal place of business in East Wenatchee,  
7 Washington.

8 2. Commercial Recovery Corporation is a corporation organized under the  
9 laws of the State of Minnesota, with its principal place of business in Blaine,  
10 Minnesota.

11  
12 **JURISDICTION AND VENUE**

13 3. This action arises under the patent laws of the United States, Title 35  
14 U.S.C. § 1, *et seq.*

15 4. Plaintiff is a corporation organized under the laws of the State of  
16 Washington with a principal place of business in East Wenatchee, Washington.  
17 Provision A/R provides Internet services to subscribers within the jurisdiction of this  
18 Court.

19  
20 5. Plaintiff is informed and believes, and on that basis alleges that this  
21 Court has personal jurisdiction over Defendant; that Defendant has, among other  
22 things, distributed, sold or offered for sale, online services via the Internet including  
23 services that are the subject of this litigation within the State of Washington; that  
24

1 Defendant has offered services and/or has threatened litigation against subscribers,  
2 or potential subscribers of Plaintiff's online services, in the ordinary course of trade;  
3 and/or otherwise has made or established contacts within the State of Washington  
4 sufficient to permit the exercise of personal jurisdiction.  
5

6 6. This Court has subject matter jurisdiction over this action under 28  
7 U.S.C. §§ 1331, 1338, 2201, and 2202.

8 7. Venue is proper in this District under 28 U.S.C. § 1931 (b) and (c).

9 8. An actual controversy, within the meaning of 28 U.S.C. §§ 2201 and  
10 2202 exists between Provision A/R, on the one hand and CRC on the other, with  
11 respect to whether the claims of the '839 Patent are invalid and/or not infringed.  
12

### 13 **FACTUAL BACKGROUND**

14 9. Defendant has alleged that subscribers to Plaintiff's online, computer  
15 based, data management program infringe United States Patent No. 7,167,839,  
16 please see Exhibit A attached hereto. A copy of the '839 Patent is attached hereto as  
17 Exhibit B, which is purportedly owned by Defendant.  
18

19 10. An actual case or controversy has arisen between the parties as  
20 Provision A/R, under its warranties of merchantability and fitness for purpose, and  
21 Section 271(b) of the Patent Act, 35 U.S.C. § 271(b) for inducement of  
22 infringement, is at risk of suit by Defendant and/or responsible for the indemnity  
23 and defense to its subscribers of its online services, which includes subscribers in  
24

1 the Eastern District of Washington. The claims of Defendant, therefore, threaten  
2 injury to Plaintiff.

3 **DECLARATORY JUDGMENT OF INVALIDITY OF THE '839 PATENT**  
4

5 11. Plaintiff incorporates by reference its allegations as set forth above in  
6 paragraphs 1 through 10.

7 12. Upon information and belief, Plaintiff alleges that the '839 Patent is  
8 invalid for failing to comply with the provisions of the Patent Laws, including 35  
9 U.S.C. §§ 102, 103, and 112.

10 13. Upon information and belief, Plaintiff alleges that any online computer  
11 based service offered by it to subscribers does not infringe any claim of the '839  
12 Patent, and that no subscriber is induced to infringe any claim of the '839 Patent.  
13

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays:

16 a. For a judgment declaring that neither Plaintiff, nor any subscriber of  
17 Plaintiff's online services, has infringed and is not infringing any valid claim of the  
18 '839 Patent;  
19

20 b. For a judgment declaring that the '839 Patent is invalid; and

21 c. For such other and further relief as the Court deems just and equitable  
22 in the premises.  
23  
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1 DATED this 6<sup>th</sup> day of September, 2011.

2  
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